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NO. 96821-7

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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THE JUDGES OF THE BENTON AND FRANKLIN COUNTIES  
SUPERIOR COURT: Judge Joe Burrowes, Judge Alex Ekstrom Judge  
Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-Brown,  
Judge Bruce Spanner and Judge Sam Swanberg,

Respondents,

vs.

MICHAEL J. KILLIAN, FRANKLIN COUNTY CLERK AND  
CLERK OF THE SUPERIOR COURT,

Appellant.

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WASHINGTON STATE ASSOCIATION OF COUNTIES  
BRIEF OF AMICUS CURIAE

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## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	ISSUES .....	2
III.	FACTS .....	3
IV.	LEGAL AUTHORITIES.....	5
	A. The county budget process is discretionary and limited to the county legislative body. ....	7
	B. Local court rules should not be adopted as an indirect attack on a county officer's budget. ....	12
	C. The writ of mandamus was not justified as an extraordinary remedy.....	16
V.	CONCLUSION.....	20

## TABLE OF AUTHORITIES

### **CASES**

<i>Association Collectors v. King County</i> , 194 Wash. 25, 76 P.2d 998 (1938).....	13
<i>Bank of Lowell v. Cox</i> , 35 Ariz. 403, 279 P. 257 (1929) .....	11
<i>Bland v. Mentor</i> , 63 Wn.2d 150, 385 P.2d 727 (1963).....	18
<i>Carrick v. Locke</i> , 125 Wn.2d 129, 882 P.2d 173 (1994) .....	16
<i>Dillon v. Whatcom County</i> , 12 Wash. 391, 12 P. 174 (1895).....	8
<i>Filo Foods, LLC v. City of SeaTac</i> , 183 Wn.2d 770 n.4, 357 P.3d 1040 (2015).....	6
<i>Holmes v. Raffo</i> , 60 Wn.2d 421, 374 P.2d 536 (1962) .....	18
<i>Humbert v. Dunn</i> , 84 Cal. 57, 24 P. 111 (1890) .....	7
<i>In re Estate of Reilly</i> , 78 Wn.2d 623, 479 P.2d 1 (1970).....	18
<i>In re the matter of the Adoption Of New Standards For Indigent Defense And Certification Compliance</i> , No. 25700-A-110, WSR 12-13-064 (June 15, 2012).....	16
<i>In the Matter of the Salary of the Juvenile Director</i> , 87 Wn.2d 232, 552 P.2d 163 (1976).....	8, 17, 18
<i>Kerr v. King County</i> , 42 Wn.2d 845, 259 P.2d 398 (1953) .....	13
<i>King County v. Taxpayers of King County</i> , 133 Wn.2d 584, 949 P.2d 1260 (1997) .....	6
<i>Mason–Walsh–Atkinson–Kier Co. v. Dep’t of Labor &amp; Indus.</i> , 5 Wn.2d 508, 105 P.2d 832 (1940).....	6
<i>Miller v. Pacific County</i> , 9 Wn. App. 177, 509 P.2d 377 (1973) .....	8, 13

<i>Moore v. Snohomish County</i> , 112 Wn.2d 915, 774 P.2d 1218 (1989) .....	6
<i>Recall of Sandhaus</i> , 134 Wn.2d 662, 953 P.2d 82 (1998).....	13
<i>State ex rel. Ross v. King County</i> , 191 Wash. 340, 71 P.2d 370 (1937).....	12, 13
<i>State ex rel. Trask v. Gleason</i> , 182 Wash. 181, 45 P.2d 610 (1935) .....	19
<i>SEIU Healthcare 775NW v. Gregoire</i> , 168 Wn.2d 593, 229 P.3d 774 (2010).....	7, 16, 17
<i>State ex rel. Peel v. Clausen</i> , 94 Wash. 166, 162 P. 1, 3 (1917).....	6
<i>State ex rel. Richardson v. Clark County</i> , 186 Wash. 79, 56 P.2d 1023 (1936).....	10
<i>State ex rel. Taylor v. Scofield</i> , 184 Wash. 250, 50 P.2d 896 (1935) .....	15
<i>State ex rel. Washington Toll Bridge Authority v. Yelle</i> , 56 Wn.2d 86, 351 P.2d 493 (1960).....	11
<i>State v. Perala</i> , 132 Wn. App. 98, 130 P.3d 852 (2006) .....	6, 7
<i>Walker v. Munro</i> , 124 Wn.2d 402, 879 P.2d 920 (1994).....	16, 17
<i>Washington Ass’n of Neighborhood Stores v. State</i> , 149 Wn.2d 359, 70 P.3d 920 (2003).....	6

## **STATUTES**

Chapter 36.40 RCW .....	7, 8, 9, 15
Revised Code of Washington 36.40.140.....	10
Revised Code of Washington 36.40.010.....	8
Revised Code of Washington 36.40.030.....	8
Revised Code of Washington 36.40.040.....	8

Revised Code of Washington 36.40.050.....	8, 9
Revised Code of Washington 36.40.060.....	9
Revised Code of Washington 36.40.070.....	9
Revised Code of Washington 36.40.071.....	9
Revised Code of Washington 36.40.080.....	9
Revised Code of Washington 36.40.090.....	9
Revised Code of Washington 36.40.100.....	9, 10, 12, 15
Revised Code of Washington 36.40.130.....	10, 11, 13, 15
Revised Code of Washington 36.40.140.....	10, 15
Revised Code of Washington 36.40.150.....	10, 15
Revised Code of Washington 36.40.160.....	10, 15
Revised Code of Washington 36.40.170.....	10, 15
Revised Code of Washington 36.40.180.....	10, 15
Revised Code of Washington 36.40.190.....	10, 15
Revised Code of Washington 36.40.195.....	15
Revised Code of Washington 36.40.210.....	9
Revised Code of Washington 36.40.240.....	11
Revised Code of Washington 43.135.060.....	16

#### **OTHER AUTHORITIES**

Washington Constitution article VIII, section 4. ....	6
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## **RULES**

General Rule 7 .....	16
General Rule 9 .....	16
Local General Rule 3 .....	1, 2, 3, 5, 10, 11, 12, 14, 16, 18, 19, 20

## **I. INTRODUCTION**

Washington State Association of Counties (WSAC) is a voluntary, non-profit association of elected county commissioners, county councils, and county executives from all of Washington's 39 counties. Created in 1906, WSAC provides a forum for networking and sharing best practices, and importantly provides a single voice for and on behalf of counties.

Given its membership, WSAC has a unique perspective on county budgets, appropriations, and the funding of county government. Indeed, budget laws applicable to counties require the State Auditor to consult with WSAC on the standard classification of accounts used to report receipts and expenditures detailed in annual budgets.

The issues presented in this case include the nuanced and intricate area of law involving overlapping roles of elected officials and have important ramifications not only for the Franklin County Clerk and all clerks across the state, but for the legislative authorities of county governments and their ability to fulfill mandatory statutory duties, particularly as to budgets and appropriations.

According to the Franklin County Clerk (Clerk), adoption of Local General Rule 3 (LGR 3) and issuance of mandamus ordering him to comply with LGR 3 would cause him to exceed the appropriations for his office. A county official who exceeds authorized appropriations is liable

personally and upon his or her official bond, unless a supplemental appropriation is made, an emergency is declared, or an order of a court of competent jurisdiction is made. None of these occurred here.

The Franklin County Auditor is also prohibited from issuing warrants and the Franklin County Board of Commissioners (Board) is prohibited from approving any claim for any expenditure in excess of the detailed budget appropriations adopted for the Clerk, unless one of the three exceptions apply. Like the Clerk, the Auditor and Board can be held liable personally and upon their official bond for issuing warrants or approving claims beyond the adopted budget.

WSAC and its members are concerned that if left unchecked, courts will bypass state budget laws and the carefully constructed exceptions by adopting local rules affecting duly adopted county budgets, causing expenditures to exceed appropriations. Courts should not be permitted to take such action except where expressly authorized by law.

## **II. ISSUES**

Does LGR 3 usurp the discretionary authority of the Franklin County legislative authority by causing the Clerk to incur expenditures not within his budget and for which the legislative authority did not appropriate funds, and if so, may LGR 3 be given effect?

Was the highest burden of proof in civil cases met when the



superior court issued a writ of mandamus directing the Clerk to keep and maintain duplicate paper copies of files and records filed with the Clerk, when doing so would cause unappropriated expenditures?

As discussed in detail below, the adoption of LGR 3 would cause unappropriated expenditures and thereby usurps the discretion of the Franklin County legislative authority. Mandamus should not have been issued requiring the Clerk to incur expenditures that were not within the budget appropriated for his office.

### **III. FACTS**

As WSAC understands the facts, in November 2015 Franklin County launched Odyssey, a web-based electronic case management system. CP 119, 129. Undertaken by the Administrative Office of the Courts, Odyssey allows for the electronic storage and retrieval of records filed with county clerks and allows public access to such records through the Internet (a “paperless system”). CP 118-120, 129. Franklin County was an early adopter of Odyssey, and the Franklin County Superior Court, Clerk, and Board signed a “go live” agreement in 2015 to maintain the record of all case documents digitally within the Odyssey system. CP 119, 140-142, 144.

From the time he took office in 2001 through December 31, 2017, the Clerk has submitted a budget to the Board in the amount of

approximately \$120,000.00. CP 117. This budget request included the costs necessary to maintain paper records filed with the Clerk, which included both staff time and paper folder costs. CP 117-118. For year 2017, the cost of paper folders was approximately \$3,441.00. Id. This had decreased yearly by reusing old folders. CP 117, 242. Staff time costs for maintaining paper copies in 2017 was approximately \$5,600.00 per month. CP 118, 243.

Franklin County's implementation of Odyssey proved to be successful. After using Odyssey for two years and not relying on paper files, the Clerk notified the Board and the Franklin County Superior Court that effective January 1, 2018, duplicate paper records would no longer be maintained. CP 119-121, 243.

In anticipation of this change, the Clerk submitted a 2018 budget estimate that did not cover the cost for paper file folders. CP 117, 242. Also, no additional funds were sought for staff time because the Clerk expected the amount of time used for uploading records into Odyssey would be the same as previously used for maintaining paper records. CP 118, 243. Despite the trend that case filings were increasing yearly, the Clerk anticipated the fully electronic recordkeeping system would save significant staff time. CP 243. The Board authorized the Clerk's 2018 budget, and thus no funds were appropriated to maintain paper files. CP

118, 242. In 2018, staff scanned 287,778 pages of records. CP 243.

After the Clerk's 2018 budget was adopted (CP 118), the Franklin County Superior Court adopted LGR 3, which requires the Clerk to maintain duplicate paper files for all cases and file types. CP 33.

Duplicate paper files require the purchase of new file folders and that electronic records be "printed, sorted, hole punched, and placed into paper files, shelved, and maintained in the Clerk's Office Vault." CP 243. The Clerk states that an additional appropriation of funds in the amount of \$70,641.00 would be needed to cover the cost of duplicate paper records. The cost for making and maintaining paper records were not contemplated in the Clerk's 2018 budget. LGR 3 thus had the effect of requiring the Clerk to exceed the amount of funds appropriated for his office. CP 118.

The Clerk has no control over whether the Board would approve an additional appropriation for year 2018 to fund the cost of duplicate paper records or whether the Board would authorize increases in the Clerk's budgets in subsequent years to account for the cost of maintaining a duplicate set of paper records. CP 247-248.

#### **IV. LEGAL AUTHORITIES**

The budgeting and appropriation of county funds is heavily circumscribed by both the state constitution and the state legislature. The Washington State Constitution provides that "[n]o moneys shall ever be

paid out of the treasury . . . except pursuant to an appropriation by law; and every such law making a new appropriation . . . shall distinctly specify the sum appropriated, and the object to which it is to be applied.” Const. art. VIII, § 4.<sup>1</sup>

The meaning and application of this constitutional prohibition have been addressed numerous times. The courts have held its purpose is to prevent the expenditure of public funds without legislative direction and without the sanction of a legislative body. *Washington Ass’n of Neighborhood Stores v. State*, 149 Wn.2d 359, 365, 70 P.3d 920 (2003); *abrogated on other grounds by Filo Foods, LLC v. City of SeaTac*, 183 Wn.2d 770 n.4, 357 P.3d 1040 (2015); *King County v. Taxpayers of King County*, 133 Wn.2d 584, 604, 949 P.2d 1260 (1997), *cert. denied* 522 U.S. 1076 (1998) and 523 U.S. 1076 (1998); *Mason–Walsh–Atkinson–Kier Co. v. Dep’t of Labor & Indus.*, 5 Wn.2d 508, 513–14, 105 P.2d 832 (1940) (“It is well understood that these provisions-and they are common to most, if not all, [of] our written Constitutions-are mandatory, and that no moneys can be paid out without the sanction of the legislative body”) (*quoting State ex rel. Peel v. Clausen*, 94 Wash. 166, 173, 162 P. 1, 3

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<sup>1</sup> This constitutional limitation on expenditure of public funds without legislative appropriation applies to counties. *State v. Perala*, 132 Wn. App. 98, 115, 130 P.3d 852 (2006), *review denied* 158 Wn.2d 1018, 149 P.3d 378 (2006); *citing Moore v. Snohomish County*, 112 Wn.2d 915, 920, 774 P.2d 1218 (1989).

(1917) (The object of section 4 “is to secure to the legislative department of the government the exclusive power of deciding how, when, and for what purposes the public funds shall be applied in carrying on the government”) (*quoting Humbert v. Dunn*, 84 Cal. 57, 59, 24 P. 111 (1890)); *State v. Peralá*, 132 Wn. App. 98, 115, 130 P.3d 852 (2006), *review denied* 158 Wn.2d 1018, 149 P.3d 378 (2006).

It is clear that the legislature must first appropriate before monies can be spent. Accordingly, no expenditures for duplicate paper records may be incurred by the Clerk or paid by the Auditor unless the Board distinctly authorized the expenditure and the amount.

**A. The county budget process is discretionary and limited to the county legislative body.**

The county budget process is not a simple task. It consists of numerous steps, substantial effort on the part of all county officials and their staffs, public deliberative processes, and frequently a difficult and sometimes controversial exercise of discretion. This discretion is vested in the county legislative authority alone and cannot be usurped by another county department or elected office, including the courts. Chapter 36.40 RCW; *SEIU Healthcare 775NW v. Gregoire*, 168 Wn.2d 593, 599, 229 P.3d 774 (2010) (“The inclusion of substantive spending items in the governor’s budget is clearly not a ministerial act”); *In the Matter of the*

*Salary of the Juvenile Director*, 87 Wn.2d 232, 237, 552 P.2d 163 (1976) (“No authority rests in the judiciary to appropriate funds, as a legislative body does . . .”); *Dillon v. Whatcom County*, 12 Wash. 391, 397-398, 12 P. 174 (1895) (Where the legislature has empowered a tribunal with discretion, and the tribunal has exercised that discretion, courts have no right to substitute their judgment for the judgment of the tribunal in which the discretion has been vested); *Miller v. Pacific County*, 9 Wn. App. 177, 179, 509 P.2d 377 (1973).

The procedure for funding county government services is set forth in chapter 36.40 RCW. The laws in this chapter describe with specificity the timing, notice, detail required for expenditures, public hearings, and penalties if expenditures exceed appropriations.

Every county official, including the county clerk and superior court, must submit detailed and itemized estimates of all expenditures required by the official’s office for the ensuing fiscal year. RCW 36.40.010. These detailed estimates must be submitted to the county auditor or chief financial officer, who then prepares and submits a preliminary budget to the board of county commissioners. RCW 36.40.030-.050.

In reviewing the preliminary budget, the board considers the estimates and makes any revisions or additions it deems advisable. RCW

36.40.050. The board then causes notice to be published for two weeks in the official county newspaper that the preliminary budget is available and the time and place of a public hearing. RCW 36.40.060. Any taxpayer may appear at the hearing and be heard on the preliminary budget and any county official may be called to the hearing and questioned by the commissioners or any taxpayer on the budget estimates submitted by the official. RCW 36.40.070-.071.

Upon the conclusion of the budget hearing, the board of county commissioners must adopt a budget, with each item fixed and determined separately, entering the detail in the official minutes and forwarding a copy to the state auditor. RCW 36.40.080. The board then levies taxes, less anticipated revenues from other sources, sufficient to cover the estimated expenditures adopted in the budget. The taxes levied must not exceed the amount specified in the preliminary budget. RCW 36.40.090. Thereafter, for each month of the fiscal year, the county auditor must prepare a report to the board showing all expenditures and liabilities against each separate budget appropriation for the preceding month and year-to-date. RCW 36.40.210.

Chapter 36.40 RCW proscribes the same spending limitation as the state Constitution. County officials may not exceed the appropriations adopted by the board. RCW 36.40.100 reads:

The estimates of expenditures itemized and classified as required in RCW 36.40.040 and as finally fixed and adopted in detail by the board of county commissioners shall constitute the appropriations for the county for the ensuing fiscal year; and every county official shall be limited in the making of expenditures or the incurring of liabilities to the amount of the detailed appropriation items or classes respectively. . .

RCW 36.40.100.

The auditor may also not issue warrants and the commissioners may not approve any claim for any expenditure in excess of the detailed budget appropriations unless: (1) the budget is revised, (2) the expenditure is authorized by the board in an emergency, or (3) upon an order of a court of competent jurisdiction. RCW 36.40.130. A revision of the budget may occur, but only with the same formalities mandated for adoption of the original budget. RCW 36.40.100. For emergency expenditures, the detailed procedures of RCW 36.40.140 - .190 apply to require notice and a hearing except for those true emergencies identified in RCW 36.40.180. An order of the court “[m]anifestly ... refers to judgments and orders of a court made in ordinary course in some proceeding establishing the liability of the county.” *State ex rel. Richardson v. Clark County*, 186 Wash. 79, 85, 56 P.2d 1023 (1936). LGR 3 is none of these.

Any county official who exceeds the detailed appropriations adopted for her/his office is liable personally and upon his or her official bond. RCW 36.40.130. Likewise, if the auditor issues a warrant or the



county commissioners approve a claim for any expenditure in excess of any of the items detailed in the budget, they are liable personally and on their official bonds. RCW 36.40.130. Any person violating the budget law is guilty of a misdemeanor. RCW 36.40.240.

While these penalties may seem harsh, the legislature obviously wished to avoid the significant repercussions that can occur. As explained by the courts, the “[p]urpose of budget laws is to prohibit incurring of any indebtedness in any fiscal year unless funds are first provided to meet it. *State ex rel. Washington Toll Bridge Authority v. Yelle*, 56 Wn.2d 86, 95, 351 P.2d 493 (1960); *citing with approval Bank of Lowell v. Cox*, 35 Ariz. 403, 279 P. 257, 260 (1929).

As is evident from these detailed statutory budget and appropriations laws, county commissioners are given a great degree of control over other elected county officials through the authority to adopt a county budget. That control, however, is importantly surrounded with due process requirements — specificity in the sums to be expended, timing and notice of hearings, formality of the adoption procedure, and relative finality after adoption. It would be entirely inconsistent with these formalities and the limited exceptions to permit an indirect attack upon the finality of the county’s budget after its formal adoption.

The adoption of LGR 3 by the Franklin County Superior Court,

however, does just that. By mandating a service that was not funded, the court effectively allocated taxpayer resources to the court system beyond those designated by the Franklin County legislative authority. The Franklin County Superior Court was without authority to do so.

**B. Local court rules should not be adopted as an indirect attack on a county officer's budget.**

Under RCW 36.40.100, the Clerk was limited in expenditures to the detailed appropriation adopted by the Board. He could not make expenditures or incur liabilities except for the items or classes specified in the adopted budget, and only in the amounts specifically designated in the adopted budget. *See State ex rel. Ross v. King County*, 191 Wash. 340, 373-374, 71 P.2d 370 (1937).

For his 2018 budget, the Clerk did not submit estimated expenditures for supplies to make and maintain paper records or for staff time to make paper copies of electronic records. CP 117-118, 242-243. The entirety of his budget was intended for other items. Compliance with LGR 3 (and the writ of mandamus issued subsequently) would cause the Clerk to exceed his 2018 budget by \$70,641.00. CP 244.

LGR 3 forced the Clerk between a rock and a hard place. As there was no emergency or order of a court of competent jurisdiction, his options were to violate LGR 3 or ask the Board for a supplemental

appropriation. However, if the Board exercised its broad discretion to deny the request, the Clerk would be personally liable for expenditures incurred for making duplicate paper records. RCW 36.40.130; *Recall of Sandhaus*, 134 Wn.2d 662, 671, 953 P.2d 82, 87 (1998) (Second charge in recall petition factually sufficient in that county prosecuting attorney made expenditures in excess of detailed budget appropriations without the board's approval); *Miller v. Pac. County*, 9 Wn. App. 177, 178, 509 P.2d 377, 378 (1973) (Absent a formal revision, county commissioners do not have the power to approve expenditures not authorized in the county budget); *Kerr v. King County*, 42 Wn.2d 845, 851–52, 259 P.2d 398, 401–02 (1953) (There being no appropriation for overtime pay in the adopted budget, county employees were not entitled to recover overtime pay); *Association Collectors v. King County*, 194 Wash. 25, 76 P.2d 998 (1938) (To escape liability for expenditures made in excess of budget appropriation, sheriff had burden to prove they were not only reasonable in amount but were incurred for things indispensably required for discharge of county's governmental functions, which burden could not be satisfied by evidence that expenditures were made for things merely of great convenience and assistance in performance of those functions, or even by testimony which showed they were necessary for their performance); *State ex rel. Ross v. King County*, 191 Wash. 340, 71 P.2d

370, 374 (1937) (Salaries of extra employees hired by the county clerk without the commissioner's consent were not a liability of the county); *State ex rel. Richardson v. Clark County*, 186 Wash. 79, 86, 56 P.2d 1023 (1936) ("The provisions of the budget law . . . make all warrants for expenditures in excess of the budget allowance illegal and specially enjoin the county auditor from issuing any such warrant and the county commissioners from approving any claim in excess of the budget").

In addition to its impact on the Clerk, LGR 3 impinged on the Board's legislative authority and discretion, and likewise put the Board in a tough position. Had the Clerk submitted a request for supplemental appropriations, the Board would have been forced to reallocate money for this purpose, and thereby not only cede their discretion but withdraw funding of another governmental service. Or, the Board could knowingly make the Clerk personally liable for expenditures necessary to comply with LGR 3.

Absent adoption of a supplemental budget appropriation by Board, expenditures for duplicate paper records could not be made from County funds. It was improper for the Franklin County Superior Court to issue a rule requiring the Clerk to maintain duplicate paper records and by doing so cause the Clerk to incur expenses that were not appropriated.

The Franklin County Superior Court has argued that many superior

court actions unpredictably affect county budgets without constitutional or statutory offense. Likely, this is because a county officer affected by a superior court action, including the superior court itself, has an avenue for addressing unpredictable or unanticipated expenditures: chapter 36.40 RCW. During a budget year, the need for supplemental appropriations or budget revisions can arise for various reasons, such as for employee overtime, attorney fee awards, indigent defense costs, arbitration awards or court judgments, or a decline in anticipated revenue. Typically, a county official will provide notice to the board that a budget revision or supplemental appropriation is needed, and the process for doing so is addressed in RCW 36.40.100 and RCW 36.40.130 - .195. Still, the discretion to make supplemental appropriations is vested in the county legislative authority, which can authorize the changes, decline to do so, or require the county official to use other, unexpended funds within the official's previously approved appropriations. RCW 36.40.100 ("transfers or revisions within departments . . . may be made"); *see also State ex rel. Taylor v. Scofield*, 184 Wash. 250, 253, 50 P.2d 896, 897 (1935) (Board's budget authority includes taking action to revise the budget).

As WSAC understands the facts, the Franklin County Superior Court provided no notice that it intended to adopt a rule requiring the Clerk to maintain paper records. Typically, courts provide advance notice

of proposed rules, and particularly to persons who are interested or where public funds will be affected.<sup>2</sup> The judiciary should not be permitted to adopt local rules, without sufficient advance notice, and without coordination with local government, that cause additional expenditures of taxpayer funds.

**C. The writ of mandamus was not justified as an extraordinary remedy.**

In December 2018, mandamus was issued directing the Clerk to comply with LGR 3 by keeping and maintaining paper copies of files and records filed with the Clerk. CP 240-241. The issuance of mandamus directed to public officers “must be justified as an extraordinary remedy.” *SEIU Healthcare 775NW v. Gregoire*, 168 Wn.2d 593, 598–99, 229 P.3d 774, 777 (2010); citing *Walker v. Munro*, 124 Wn.2d 402, 424, 879 P.2d 920 (1994). The Supreme Court has placed strict limits on the circumstances under which mandamus may be issued to public officers. “[M]andamus may not be used to compel the performance of acts or duties

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<sup>2</sup> E.g., GR 9; GR 7; see also *Carrick v. Locke*, 125 Wn.2d 129, 136, 882 P.2d 173 (1994) (Discussing the importance of separation of powers to protect institutional interests and noting the “long history of cooperation” between branches of government which tends to militate against separation of powers violations). Fairly recent examples of rules and laws recognizing local funding interests include *In re the matter of the Adoption Of New Standards For Indigent Defense And Certification Compliance*, No. 25700-A-110, WSR 12-13-064 (June 15, 2012); and RCW 43.135.060, enacted following voter initiative, which actually prohibits the Legislature from imposing responsibility for increased levels of service under existing programs on counties unless counties are fully reimbursed by the state for the costs of the new programs or increases in service levels.

which involve discretion on the part of a public official.” *SEIU Healthcare 775NW v. Gregoire* at 599, 879 P.2d 920, *quoting Walker v. Munro* at 410, 879 P.2d 920.

The burden of proof for issuance of a writ of mandamus is clear, cogent, and convincing evidence. *In the Matter of the Salary of the Juvenile Director*, 87 Wn.2d 232, 237, 552 P.2d 163 (1976). In *Juvenile Director*, the Lincoln County Superior Court, not satisfied with the Juvenile Director’s salary established by the Lincoln County Board of County Commissioners, issued a writ of mandate directing the Board to increase the salary. *In the Matter of the Salary of the Juvenile Director*, 87 Wn.2d at 233-234, 552 P.2d 163. The Supreme Court reversed the writ. The Court discussed at length the history of the separation of powers doctrine, acknowledging that a complete separation was “never intended and overlapping functions were created deliberately” and that the doctrine recognizes the judiciary must be able to “ensure its own survival when insufficient funds are provided by the other branches.” *Id.* at 242, 245, 552 P.2d 163.

While recognizing that the judiciary has inherent power to protect its ability to function, the Supreme Court also affirmed that there are very limited situations where the judiciary may compel funds for its own use. *Id.* at 249-250, 552 P.2d 163. The Supreme Court adopted the clear,

cogent, and convincing standard for the exercise of judicial power in funding matters and stated, “[i]t is incumbent upon courts, when they must use their inherent power to compel funding, to do so in a manner which clearly communicates and demonstrates to the public the grounds for the court’s action. This can be accomplished by imposing on the judiciary the highest burden of proof in civil cases when courts seek to exercise their inherent power in the context of court finance.” *Id.* at 251, 552 P.2d 163; citing *In re Estate of Reilly*, 78 Wn.2d 623, 629, 479 P.2d 1 (1970); *Bland v. Mentor*, 63 Wn.2d 150, 154-55, 385 P.2d 727 (1963); and *Holmes v. Raffo*, 60 Wn.2d 421, 426, 374 P.2d 536 (1962). The judiciary thus must prove, by clear, cogent, and convincing evidence that the appropriated funding was “so inadequate that the court could not fulfill its duties” and that the funds were “reasonably necessary for the efficient administration of justice.” *Id.* at 252. In *Juvenile Director*, the Superior Court had made no showing that other qualified employees could not be hired at the salary established by the board of commissioners, or that the functioning of the Superior Court would be impaired if the Director’s salary was not increased. *Id.*, at 234.

The mandamus directing the Clerk to comply with LGR 3 was tantamount to the Franklin County Superior Court taking over the administration of Franklin County offices and the management of County



finances. Under the circumstances described by the Clerk, maintaining case files in electronic form and providing paper copies to judges and others upon request did not prevent or hamper the Franklin County Superior Court judges in the performance of their statutory duties. CP 116-122. *See State ex rel. Trask v. Gleason*, 182 Wash. 181, 184, 45 P.2d 610, 611 (1935) (rejecting mandamus to compel the board of commissioners to increase the amount of the budgets of the county treasurer and clerk: “It may be that the relators will be hampered in the performance of statutory duties because of insufficient clerical help. It does not appear, however, that their budgets are so meager as to suspend the operation of their offices or prevent the performance of their statutory duties”).

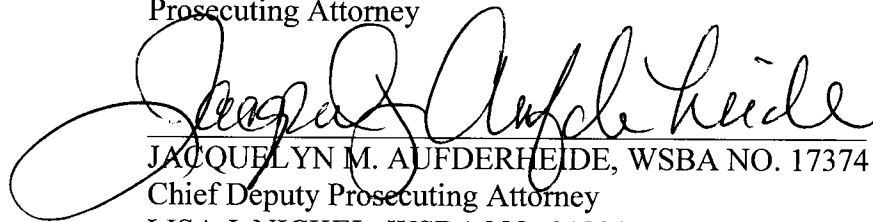
The record does not show at all, much less by clear, cogent, and convincing evidence, that maintaining the records electronically was so inadequate that the Franklin County Superior Court could not fulfill its duties or that duplicate paper records were reasonably necessary for the efficient administration of justice. And yet, without any notice or coordination with the Franklin County legislative authority, the Franklin County Superior Court adopted a local rule mandating the Clerk expend funds on a duplicate paper record when no appropriation for such existed. The adoption of LGR 3 usurped the discretionary authority of the Board. Mandamus was improper.

## V. CONCLUSION

Washington State Association of Counties respectfully submits that the Franklin County Superior Court's adoption of LGR 3 and the issuance of mandamus directing the Clerk to comply with LGR 3 were contrary to Washington State's longstanding budget and appropriation laws. Adoption of LGR 3 and issuance of mandamus forces the Board of County Commissioners into a situation where it has to either make a supplemental appropriation for the Clerk or do nothing and allow him to exceed the appropriations for his office and violate state laws. The electronic records maintained by the Clerk were not so inadequate that the Franklin County Superior Court could not fulfill its duties and duplicate paper records were not reasonably necessary for the efficient administration of justice.

Respectfully submitted this 26<sup>th</sup> day of July, 2019.

CHAD M. ENRIGHT  
Prosecuting Attorney

A large, stylized handwritten signature in black ink, which appears to read "Jacquelyn M. Aufderheide". The signature is written over the printed name and title of the Chief Deputy Prosecuting Attorney.

JACQUELYN M. AUFDERHEIDE, WSBA NO. 17374  
Chief Deputy Prosecuting Attorney  
LISA J. NICKEL, WSBA NO. 31221  
Senior Deputy Prosecuting Attorney  
614 Division Street, MS 35A  
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## CERTIFICATE OF SERVICE

I, Laurie Hughes, declare, under penalty of perjury under the laws of the State of Washington, that I am now and at all times herein mentioned, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the above document in the manner noted upon the following:

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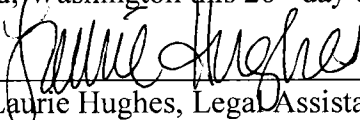
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SIGNED in Port Orchard, Washington this 26<sup>th</sup> day of July, 2019.

  
\_\_\_\_\_  
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**KITSAP COUNTY PROSECUTING ATTORNEY'S OFFICE - CIVIL DIVISION**

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**Appellate Court Case Title:** The Judges of Benton and Franklin Counties v. Michael Killian, et al.  
**Superior Court Case Number:** 18-2-50285-6

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